

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 1051, A BILL TO AUTHORIZE NATIONAL MALL LIBERTY FUND D.C. TO ESTABLISH A MEMORIAL ON FEDERAL LAND IN THE DISTRICT OF COLUMBIA AT CONSTITUTION GARDENS PREVIOUSLY APPROVED TO HONOR FREE PERSONS AND SLAVES WHO FOUGHT FOR INDEPENDENCE, LIBERTY, AND JUSTICE FOR ALL DURING THE AMERICAN REVOLUTION

September 11, 2007

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 1051, a bill to authorize the National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia at Constitution Gardens previously approved to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution.

The Department supports the establishment of a memorial in the Nation's Capital that would recognize and commemorate the contributions of African Americans as they fought for independence, liberty and justice during the Revolutionary War. However, the Department opposes S. 1051 in its current form as it is inconsistent with the principles, processes and requirements set forth in the Commemorative Works Act, which has successfully guided the process for establishing monuments in the Nation's Capital since it was enacted in 1986. Over the course of the succeeding 20 years, 17 memorials have been planned, designed, and constructed following that process and an additional five memorials are currently in various stages of completion.

S. 1051

While S. 1051 states that the memorial shall be established in accordance with the Commemorative Works Act, the bill also contains provisions that contravene several critical requirements of the Commemorative Works Act.

First, the provisions in S. 1051 would designate a specific site for the memorial, rather than allowing for the site selection process under the Commemorative Works Act to determine the appropriate location of the memorial. This site selection process requires consultation with the National Capital Memorial Advisory Commission and approval by the Commission of Fine Arts, the National Capital Planning Commission, and the National Park Service. Congress has traditionally provided that such site and design decisions be determined through established processes under the Commemorative Works Act, and we support this practice that has worked well for over 20 years.

The specific site identified in the bill is in Area I at Constitution Gardens which was approved for the Black Revolutionary War Patriots Memorial in 1988, but expired in 2005 and is now within the Reserve. In 2003, Congress declared the Reserve to be a completed work of civic art and precluded the establishment of new memorials. The Department supports Congress's prohibition of new memorial proposals within the Reserve. The Department recognizes the site selection process and the Reserve to be basic pillars of the Commemorative Works Act, a safeguard and a guide to the best use of the parklands of the Nation's Capital.

In addition, S. 1051 is inconsistent with the Commemorative Works Act provisions relating to expiration of legislative authority, a separate, but related issue. The Commemorative Works Act specifies that “upon expiration of the legislative authority, any previous site and design approvals shall also expire.” In 1986, Congress authorized the Black Revolutionary War Patriots Memorial Foundation to establish the Black Revolutionary War Patriots Memorial consistent with legislation to establish the Commemorative Works Act, which was pending before Congress at the time and enacted later that year. In 1987, Congress enacted second law authorizing placement of that memorial within Area I as it was then defined by the Commemorative Works Act. In 1988, the National Park Service, the Commission of Fine Arts and the National Capital Planning Commission approved a site in Constitution Gardens for the Black Revolutionary War Patriots Memorial and, in 1996, approved the final design. Despite four extensions of the memorial’s authorization over 21 years, the Foundation was unable to raise sufficient funds for construction, and the authority finally lapsed in October 2005.

The authority to construct a memorial is granted by Congress to a specific sponsor to establish a particular memorial typically within specified timeframes. The expired 1986 authorization was given to the sponsor, the Black Revolutionary War Patriots Memorial Foundation, to establish the Black Revolutionary War Patriots Memorial. S. 1051 would authorize a different sponsor, the National Mall Liberty Fund D.C. to establish a memorial with a different name, and, as we understand it, a different design. It has been 19 years since the site was approved for the Black Revolutionary War Patriots Memorial and 11 years since the design was approved. In accordance with the Commemorative Works Act, these previous site and design approvals expired in 2005 along with the fourth extension of the legislation authorizing that memorial.

Given that the reservation of the site expired in 2005, the new sponsor, the new name, and a new proposed design, we believe that S. 1051's authorization to establish the National Liberty Memorial should not be construed as an extension of an expired legislative authority for the Black Revolutionary War Patriots Memorial.

Thus, the Department finds that the National Liberty Memorial is a new proposal and should follow all the provisions of the Commemorative Works Act, including the site selection process. Unlike all memorial proposals that seek authorization by means of a discrete bill to recognize and designate an individual memorial subject matter and sponsor, S. 1051 would amend Public Law 99-558 to establish the National Liberty Memorial without complete compliance to the provisions and requirements of the Commemorative Works Act. We are concerned that allowing for what amounts to an extension of selected provisions of processes required under the Commemorative Works Act after they have expired is unfair to memorial sponsors who diligently meet the timeframes of their authorizations and creates an unwelcome precedent for future efforts to establish memorials through what has been an even-handed public process.

We also would like to point out that S. 1051 makes no provisions for the disposition of moneys raised in excess of funds needed for the establishment of the memorial or to hold in reserve the amount on hand should the authority to establish the memorial expire before completion.

We reiterate our support of the establishment of a memorial in the Nation's Capital that recognizes and commemorates the contributions of African Americans as they fought for independence, liberty and justice during the Revolutionary War. We look forward to the

opportunity to work with the subcommittee to develop language that would provide for such authorization in a manner consistent with the principled processes set forth by existing authorities.

Background on the Commemorative Works Act and the Reserve

In 1986, following what some characterized as "monumental chaos" over the Vietnam Veterans Memorial, which was dedicated in 1982, Congress enacted the Commemorative Works Act to guide the process for establishing memorials in the nation's Capital. Since its enactment, the Commemorative Works Act has played an important role in ensuring that memorials in the nation's Capital are erected on the most appropriate sites and are of a caliber in design that is worthy of their historically significant subjects.

On November 17, 2003, Congress declared the National Mall complete by establishing the Reserve through an amendment to the Commemorative Works Act. The Reserve was designated in response to Congressional concern over the loss of open space on the National Mall to memorials. Between 1980 and 2000, seven new memorials were erected on the Mall. This trend foreshadowed a proliferation of commemorative works that could threaten the historic open space of the Nation's greatest symbolic landscape. As a result of a Congressional hearing in 1997, this committee expressed an interest in an evaluation of how the Commemorative Works Act was functioning. Pursuant to that request, the National Capital Memorial Commission, the Commission of Fine Arts, and the National Capital Planning Commission established a Joint Task Force on Memorials.

The Joint Task Force recommended the establishment of a Reserve to preserve the monumental core and developed the Memorials and Museums Master Plan to redirect memorials throughout the city. The Reserve, an area where no new memorials would be constructed other than those previously authorized such as that honoring Martin Luther King Jr., was envisioned by the Joint Task Force as generally encompassing the central cross-axis of the Mall from the U.S. Capitol to the Lincoln Memorial and from the White House to the Jefferson Memorial. Congress expanded this area to include all of the area between Constitution and Independence Avenues from 17th Street west to the Lincoln Memorial, as well as lands south of Independence Avenue from the Tidal Basin to the Potomac River when it statutorily established the Reserve through passage of the Commemorative Works Act Clarification Act of 2003.

That concludes my testimony, I would be glad to answer any questions that you or other members of the subcommittee may have.